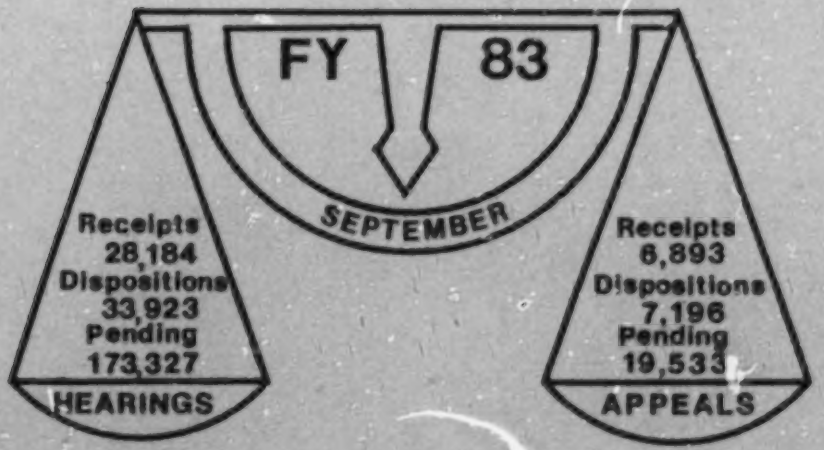
OFFICE OF HEARINGS AND APPEALS



KEY WORKLOAD INDICATORS

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ADDRESSEES

OMBP	OAC	OA	OCALJ
RC	OHA-ES	OAO	ORCALJs
OFO	ODAC	OPP	OFA
OGC	OMS	AC	
	DMA	HOIS	
	LRPS		
	DFM		

Prepared by: DSS/OHA
10/26/83

NATIONAL SUMMARY - HEARINGS

FISCAL YEAR	RECEIPTS	DISPOSITIONS	PENDING (END OF)	AVG. NO. OF ALJS ON DUTY1/	AVG. SUP. STAFF RATIO 2/	AVG. DISP. PER ALJ1/	ALJ EQ.7/	AVG. PROCESSING TIMES3/	AVG. NO. OF CASES PENDING PER ALJ1/	AVG. AGE OF PENDING CASES4/	DAYS WORTH OF RECEIPTS PENDING
FY 73	72,202	68,355	36,780	420	2.2	14	N.A.	174	117	N.A.	184
FY 74	121,504	80,783	77,233	478	2.7	13	19	164	122	N.A.	224
FY 75	154,962	121,026	111,169	591	2.9	16	29	262	173	219	260
FY 76	157,688	179,088	89,769	647	3.6	21	32	288	153	285	203
FY 76 TRANS. QTR.5/	45,418	50,271	84,916	637	3.6	21	32	233	137	236	187
FY 77	193,657	186,822	91,7516/	629	3.8	25	33	215	136	185	163
FY 78	196,428	215,445	74,747	657	3.9	27	37	179	128	133	134
FY 79	226,240	210,775	90,212	655	4.3	27	37	151	141	104	138
FY 80	252,023	232,599	109,636	669	4.4	30	41	159	169	109	152
FY 81	281,737	262,609	128,764	699	4.4	32	45	164	188	119	163
FY 82	320,680	296,548	152,896	754	4.7	34	49	174	203	124	168
FY 83	MO. CUM.	MO. CUM.									
October	26,838 26,838	25,406 25,406	154,328	813	4.4	33	48	177	202	124	168
November	28,039 54,877	25,561 50,967	156,806	812	4.5	33	48	179	204	125	169
December	28,237 83,114	24,277 75,244	160,766	809	4.5	31	46	182	207	127	175
1st Qtr.	84,213	76,343	160,766	811	4.5	33	NA	NA	207	127	174
January	28,505 112,718	26,732 103,075	162,539	804	4.5	34	51	189	209	129	176
February	24,375 137,093	25,713 128,788	161,201	802	4.5	33	48	188	206	131	177
March	33,112 170,205	30,204 158,992	164,109	799	4.6	39	57	185	210	125	175
2nd Qtr.	88,634 172,847	84,006 160,349	165,394	801	4.5	36	NA	NA	212	128	174
April	31,471 204,318	28,249 188,598	168,616	796	4.6	36	53	185	216	122	172
May	32,264 236,582	29,172 217,770	171,708	793	4.6	38	55	185	221	121	172
June	35,263 271,845	29,604 247,374	177,367	788	4.7	38	56	183	229	119	170
3rd Qtr.	99,805 272,652	88,054 248,403	177,145	792	4.6	38	NA	NA	228	119	169
July	29,238 301,890	28,047 276,450	178,336	783	4.7	36	53	183	232	121	170
August	32,149 334,039	31,419 307,869	179,066	780	4.7	41	60	183	234	122	169
September	28,184 362,223	33,923 341,792	173,327	775	4.7	45	61	183	228	124	169

1/ FY 77 - FY 82 includes RCALJs. Beginning FY 83 ALJ average dispositions are calculated using one-fourth of a work month for each RCALJ, and excludes ALJs on leave in excess of 30 consecutive calendar days. ALJ average dispositions are calculated to include the learning curve for new ALJs.
2/ Permanent Staff FY 73 - 78; FY 79 - FY 82 includes ORCALJ and temporary positions; beginning FY 83 includes only hearing office full-time permanent staff excluding interpreters.
3/ Median Times for FY 73 - FY 74; beginning FY 75 mean times - SSI cases not included until FY 76 transition quarter.
4/ SSI cases not included until FY 76 transition quarter.
5/ Covers period June 20, 1976 - October 2, 1976.
6/ Adjusted up 2,013 cases from FY 77 due to conversion from a manual to an automated reporting system.
7/ Beginning FY 1981 based on 1979 standard time values.

REGIONAL SUMMARY HEARINGS

REGION	RECEIPTS		DISPOSITIONS		PENDING		AVERAGE NUMBER OF ALJS ON DUTY2/		AVERAGE RECEIPTS PER ALJ2/		AVERAGE DISPOSITIONS PER ALJ2/		ALJ EQUIVALENT2/		AVERAGE NUMBER OF CASES PENDING PER ALJ2/		AVERAGE PROCESSING TIME BY PHYSICAL LOCATION	
	AUG	SEPT	AUG	SEPT	AUG	SEPT	AUG	SEPT	AUG	SEPT	AUG	SEPT	AUG	SEPT	AUG	SEPT	AUG	SEPT
I	1,433	1,179	1,332	1,240	6,576	6,515	36	35	42	34	38.6	36.2	56	54	191	190	211	222
II	4,465	4,043	4,763	4,999	22,519	21,563	111	111	40	37	43.2	45.5	63	67	204	196	166	166
III	3,567	3,304	3,204	3,344	19,489	19,449	89	86	41	38	37.1	39.7	56	60	226	231	178	180
IV	8,464	7,109	6,950	6,603	38,195	38,701	150	150	57	48	46.7	44.4	69	66	257	260	153	157
V	5,083	4,880	5,477	5,837	31,890	30,933	144	142	35	35	38.2	41.8	57	63	223	221	216	212
VI	3,431	3,269	3,554	3,555	20,148	19,862	83	83	42	41	43.7	44.3	66	67	248	247	174	173
VII	1,359	1,030	1,214	1,349	7,574	7,255	29	29	50	38	44.6	49.5	64	71	278	266	181	189
VIII	712	535	407	163	3,779	3,651	16	17	47	33	26.7	40.8	38	56	248	225	206	218
IX	2,715	2,418	3,919	5,348	22,758	19,828	98	98	28	25	40.5	55.0	54	52	235	204	201	188
X	625	204	490	914	4,868	4,158	20	20	32	11	25.5	47.5	34	32	253	216	267	205
National H.Q.	295	213	109	71	1,270	1,412	4	4	74	53	27.2	17.8	37	22	318	353	198	269
NATION	32,149	28,184	31,419	33,923	179,066	173,327 1/	780	775 3/	42	37	41.0	44.6	60	61	234	228	183	183
DIFFERENCE	-3,965		+2,504		-5,739		-5		-5		+3.6		+1		-6		-	

	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEPT.	DIFF. BETWEEN LAST TWO MOS.
No. of work days during mo.	20	20	21	21	19	23	21	21	22	20	23	21	-2
Disp. each workday during mo.	1270	1278	1156	1273	1353	1313	1345	1389	1346	1402	1366	1615	+249
Disp. per ALJ each workday	1.66	1.66	1.49	1.64	1.73	1.68	1.72	1.79	1.74	1.82	1.78	2.12	+0.34

1/ Based on current workload projections and related budget assumptions, the pending will be 182,579 by the end of the fourth quarter FY 1983; 182,061 by the end of the first quarter FY 1984, and 180,630 by the end of the second quarter FY 1984.

2/ ALJ average dispositions are calculated using the learning curve for new ALJs; one-fourth of a work month for each RCALJ; and excludes ALJs on leave in excess of 30 consecutive calendar days.

3/ 626 fully experienced ALJs would have been required in September to have disposed of the same number of cases as were received assuming the National rate of 45 dispositions per ALJ.

Regional Reversal Rate by Program
September 1983

REGION	RSI % Allowed of Total DEC	RSI % Allowed of Total DISP	DWIB % Allowed of Total DEC	DWIB % Allowed of Total DISP	DIWC % Allowed of Total DEC	DIWC % Allowed of Total DISP	HI % Allowed of Total DEC	HI % Allowed of Total DISP	BL % Allowed of Total DEC	BL % Allowed of Total DISP	SSI ONLY % Allowed of Total DEC	SSI ONLY % Allowed of Total DISP	CONCURRENT TITLE II/XVI SSI % Allowed of Total DEC	CONCURRENT TITLE II/XVI SSI % Allowed of Total DISP	TOTAL % Allowed of Total DEC	TOTAL % Allowed of Total DISP
I	25.0	22.2	16.0	15.4	60.8	57.9	56.7	50.0	-	-	65.3	58.7	59.6	54.3	59.8	55.6
II	20.0	16.4	33.3	29.0	59.9	55.4	44.1	36.0	-	-	48.7	43.1	55.2	49.6	56.3	51.2
III	36.0	29.5	44.3	38.6	68.5	65.3	68.8	61.1	100.0	100.0	52.2	45.5	58.8	53.1	63.9	58.3
IV	40.5	35.7	31.1	27.8	66.9	63.7	66.7	50.0	50.0	50.0	49.7	44.9	56.5	51.6	61.5	57.4
V	32.5	28.7	25.0	21.7	60.9	57.8	61.1	46.8	25.0	25.0	48.9	43.2	52.0	47.5	56.8	52.8
VI	43.8	36.8	25.0	22.7	62.1	59.6	100.0	66.7	-	-	50.5	45.6	57.3	52.2	59.0	55.4
VII	40.0	34.5	33.3	27.8	72.9	68.7	83.3	83.3	-	-	63.7	55.7	61.6	55.2	68.2	62.7
VIII	53.2	47.1	-	-	76.9	64.5	100.0	100.0	-	-	67.1	58.9	64.4	59.5	70.7	61.1
IX	46.5	39.2	46.2	36.7	77.4	34.8	83.3	45.5	-	-	59.9	43.7	70.4	34.4	70.6	36.2
X	25.0	20.0	25.0	25.0	73.5	17.4	100.0	100.0	-	-	69.2	18.4	77.8	25.8	71.7	19.1
National H.O.	-	-	-	-	82.9	67.4	-	-	-	-	20.0	14.3	73.3	55.0	73.2	57.7
NATION	36.5	31.2	31.2	27.2	65.2	55.7	55.1	44.6	45.5	45.5	53.2	45.0	58.4	47.3	61.1	51.5

STATUS REPORT OF HEARING WORKLOADS BY PROGRAM
FOR THE MONTH: September 01 - September 30, 1983

PROGRAM	RECEIPTS	DISPOSITIONS							PENDING
		AFFIRMED	REVERSED	TOTAL DECISIONS	% ALLOWED OF TOTAL DECISIONS	DISMISSED	TOTAL DISPOSITIONS	% ALLOWED OF TOTAL DISPOSITIONS	
RSI	557	259	149	408	36.5%	69	477	31.2%	3,305
DWIB	542	318	144	462	31.2%	67	529	27.2%	3,287
DI	16,076	6,142	11,519	17,661	65.2%	3,023	20,684	55.7%	101,890
HI	290	97	119	216	55.1%	51	267	44.6%	1,755
BL	10	6	5	11	45.5%	-	11	45.5%	59
SSI ONLY	4,080	1,809	2,054	3,863	53.2%	706	4,569	45.0%	24,626
CONCURRENT TITLE II/ TITLE XVI SSI	6,629	2,485	3,490	5,975	58.4%	1,411	7,386	47.3%	38,405
TOTAL	28,184	11,116	17,480	28,596	61.1%	5,327	33,923	51.5%	173,327
CHANGE FROM PREVIOUS MONTH	-3,965	-144	-47	-191	+0.2%	+2,695	+2,504	-4.3%	-3,739

CUMULATIVE: October 01, 1982 - September 30, 1983 1/

PROGRAM	RECEIPTS	DISPOSITIONS							PENDING
		AFFIRMED	REVERSED	TOTAL DECISIONS	% ALLOWED OF TOTAL DECISIONS	DISMISSED	TOTAL DISPOSITIONS	% ALLOWED OF TOTAL DISPOSITIONS	
RSI	5,950	2,980	1,706	4,686	36.4%	978	5,664	30.1%	3,305
DWIB	6,142	3,498	1,586	5,084	31.2%	694	5,778	27.4%	3,287
DI	212,095	66,302	111,254	177,556	62.7%	13,926	191,482	58.1%	101,890
HI	3,808	1,106	1,354	2,460	55.0%	1,316	3,776	35.9%	1,755
BL	120	70	56	126	44.4%	22	148	37.3%	59
SSI ONLY	53,722	22,274	24,115	46,389	52.0%	7,105	53,494	45.1%	24,626
CONCURRENT TITLE II/ TITLE XVI SSI	80,386	32,867	39,797	72,664	54.8%	8,786	81,450	48.9%	38,405
TOTAL	362,223	129.097	179,868	308,965	58.2%	32,627	341,792	52.6%	173,327
CHANGE FROM SAME PERIOD LAST YEAR	+45,432	+18,848	+24,782	+43,630	-0.2%	+3,876	+47,506	-0.1%	+22,038

1/ Does not include quarterly adjustment.

HEARING PENDING WORKLOAD

The Total Number of Pending Cases and Mean Age in Days with a Breakout of the Number and Percent of Pending Cases Over 120, 180 and 365 Days Old, by Region and National Data, September 1983

(Mean Elapsed Days Measured From Hearing Filed Date)

REGION	TOTAL PENDING CASES	MEAN AGE IN DAYS	NUMBER AND PERCENT OF PENDING CASES					
			OVER 120 DAYS		OVER 180 DAYS		OVER 365 DAYS	
			NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
I	6,515	131	2,653	40.7%	1,419	21.8%	330	5.1%
II	22,563	117	8,020	37.2%	3,059	14.2%	357	1.7%
III	19,449	119	7,839	40.3%	3,491	17.9%	464	2.4%
IV	38,701	99	12,344	31.9%	4,078	10.5%	374	1.0%
V	30,933	137	13,892	44.9%	7,417	24.0%	1,548	5.0%
VI	19,862	115	7,639	38.5%	3,115	15.7%	374	1.9%
VII	7,255	115	2,743	37.8%	1,217	16.8%	150	2.1%
VIII	3,651	161	2,005	54.9%	1,130	31.0%	307	8.4%
IX	19,828	152	10,623	53.6%	6,139	31.0%	1,022	5.2%
X	4,158	195	2,739	65.9%	1,713	41.2%	530	12.7%
National H.Q.	1,412	191	955	67.6%	662	46.9%	113	8.0%
NATION	173,327	124	71,452	41.2%	33,440	19.3%	5,569	3.2%
NATIONAL CHANGE FROM PREVIOUS MONTH	-5,739	+2	+904	+1.8%	-302	+0.5%	-34	+0.1%

NATIONAL SUMMARY

DISTRIBUTION OF HEARING CASES DISPOSED OF IN SEPTEMBER 1983

DISPOSED OF WITHIN:	CASES - EXCLUSIONS APPLIED		CASES - EXCLUSIONS NOT APPLIED	
	NUMBER	PERCENT	NUMBER	PERCENT
120 Days	9,800	29.0%	8,052	23.8%
135 Days	13,268	39.2%	11,267	33.3%
150 Days	16,602	49.0%	14,497	42.8%
165 Days	19,760	58.4%	17,754	52.4%
180 Days	22,386	66.1%	20,611	60.8%
195 Days	24,456	72.3%	22,891	67.6%
210 Days	26,262	77.6%	24,939	73.6%
225 Days	27,534	81.3%	26,368	77.8%
240 Days	28,610	84.5%	27,575	81.4%
255 Days	29,442	87.0%	28,538	84.2%
270 Days	30,155	89.1%	29,343	86.6%
285 Days	30,668	90.6%	29,974	88.5%
300 Days	31,181	92.1%	30,580	90.2%
315 Days	31,596	93.3%	31,101	91.8%
330 Days	31,952	94.4%	31,534	93.1%
345 Days	32,243	95.3%	31,886	94.1%
360 Days	32,478	96.0%	32,179	95.0%

COMPLIANCE WITH TIME LIMIT REGULATIONS
FOR THE MONTH: September 01 - September 30, 1983
HEARING LEVEL

REGION	DISPOSITIONS	165 DAY LIMITS				180 DAY LIMITS			
		NOT IN COMPLIANCE		EXCLUSIONS APPLIED		NOT IN COMPLIANCE		EXCLUSIONS APPLIED	
		NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
I	1,230	664	54.0%	46	3.7%	585	47.6%	21	1.7%
II	4,988	1,925	38.6%	475	9.5%	1,556	31.2%	149	3.0%
III	3,331	1,267	38.0%	783	23.5%	1,161	34.9%	292	8.8%
IV	6,574	1,860	28.3%	1,556	23.7%	1,617	24.6%	592	9.0%
V	5,814	3,168	54.5%	1,021	17.6%	2,883	49.6%	410	7.1%
VI	3,550	1,389	39.1%	797	22.5%	1,267	35.7%	252	7.1%
VII	1,344	655	48.7%	304	22.6%	641	47.7%	101	7.5%
VIII	659	372	56.4%	133	20.2%	355	53.9%	51	7.7%
IX	5,330	2,221	41.7%	1,079	20.2%	2,110	39.6%	540	10.1%
X	913	411	45.0%	75	8.2%	368	40.3%	36	3.9%
National H.O.	70	66	94.3%	-	0.0%	60	85.7%	-	0.0%
NATION	33,803	13,998	41.4%	6,269	18.5%	12,603	37.3%	2,444	7.2%

Note: Compliance with the 180 day time limits is measured by extending the 180 days by the time of any delay in excess of 60 days.

NATIONAL SUMMARY - APPEALS

FISCAL YEAR	RECEIPTS	DISPOSITIONS	PENDING (END OF) 1/	AVERAGE PROCESSING TIMES 2/	GRANT REVIEW RATE 3/	CENTRAL OFFICE FILING RATE 4/
FY 73	17,789	17,773	4,381	68	22.6%	56.4%
FY 74	23,097	21,445	6,033	60	19.0%	58.1%
FY 75	36,677	30,063	12,647	82	12.2%	61.8%
FY 76	48,759	48,380	13,026	82	13.8%	61.4%
FY 76 Trans. Qtr. 4/	12,981	16,659	9,348	78	18.1%	57.2%
FY 77	47,719	52,273	4,794	108	15.0%	66.8%
FY 78	52,490	48,900	8,384	75	8.3%	62.3%
FY 79	51,537	53,566	6,355	72	12.7%	65.5%
FY 80	49,742	49,466	6,631	66	12.9%	64.8%
FY 81	55,912	54,095	8,448	67	12.5%	57.3%
FY 82	68,935	63,559	13,824	NA	10.8%	51.0%

FY 83	RECEIPTS MO.	RECEIPTS CUM.	DISPOSITIONS MO.	DISPOSITIONS CUM.	PENDING (END OF) 1/	AVERAGE PROCESSING TIMES 2/	GRANT REVIEW RATE 3/	CENTRAL OFFICE FILING RATE 4/
October	5,716	5,716	5,320	5,320	14,220	80	8.0%	52.3%
November	8,154	13,870	5,303	10,623	17,071	88	10.2%	61.4%
December	6,513	20,383	5,328	15,951	18,256	99	9.7%	54.7%
1st Qtr.		20,472		16,040	18,256	NA	9.4%	59.8%
January	6,449	26,921	6,938	22,978	17,767	104	8.5%	66.7%
February	6,559	33,480	6,449	29,427	17,877	99	7.8%	52.2%
March	7,080	40,560	9,295	38,722	15,662	94	7.3%	61.5%
2nd Qtr.	22,496	42,968	22,859	38,899	17,893	NA	8.8%	64.9%
April	7,218	50,186	8,538	47,437	16,573	93	8.6%	56.5%
May	7,908	58,094	9,149	56,586	15,332	86	8.7%	56.5%
June	10,652	68,746	8,262	64,848	17,722	89	10.1%	55.3%
3rd Qtr.*	28,713	71,681	25,949	64,848	20,657	NA	9.4%	58.2%
July*	6,552	78,233	7,629	72,477	19,580	75	7.0%	59.4%
August*	8,780	87,013	8,524	81,001	19,836	74	7.6%	N.A.
September*	6,893	93,906	7,196	88,197	19,533	85	7.1%	N.A.

1/ Includes cases pending in Docket and Files without claim files.
2/ FY 73 FY 76 Transition Quarter median times are used which represent the last month in each fiscal year, excludes SSI cases; beginning FY 77 times represent mean days for the entire fiscal year, includes SSI cases. Own motion cases are included in the calculation of FY 83 processing times. Lag time between the claim file receipt date and the AC disposition date is used in the calculation.
3/ Based on requests for review only.
4/ Based on ALJ affirmations allowing a 30 day lag.
5/ Covers period June 20, 1976 October 02, 1976.
* Preliminary

APPEALS WORKLOADS

STATUS REPORT OF APPEALS WORKLOADS BY PROGRAM 1/*
FOR THE MONTH: September 01 - September 30, 1983

PROGRAM	RECEIPTS	DISPOSITIONS						PENDING	(%)
		AFFIRMED	REVERSED	DISMISSED	DENIED	REMAND	TOTAL		
RSI	110	-	13	2	130	6	151	284	(1%)
DI/DWIB	4,176	11	150	65	3,664	245	4,135	11,632	(60%)
HI	116	-	2	1	73	8	84	291	(1%)
BL	1	-	-	-	1	-	1	8	(0%)
SSI ONLY	874	5	24	21	858	50	958	2,506	(13%)
CONCURRENT TITLE II/ TITLE XVI SSI	1,616	3	65	47	1,627	125	1,867	4,812	(25%)
TOTAL	6,893	19	254	136	6,353	434	7,196	19,533	(100%)
CHANGE FROM PREVIOUS MONTH	-1,887	-34	-140	-29	-1,114	-11	-1,328	-303	

CUMULATIVE: October 01, 1982 - September 30, 1983*

PROGRAM	RECEIPTS	DISPOSITIONS						PENDING
		AFFIRMED	REVERSED	DISMISSED	DENIED	REMAND	TOTAL	
RSI	1,535	32	124	41	1,226	108	1,531	284
DI/DWIB	53,722	292	2,631	808	42,675	2,882	49,288	11,632
HI	738	2	40	11	388	80	521	291
BL	41	5	6	3	26	3	43	8
SSI ONLY	13,132	67	613	328	11,266	572	12,846	2,506
CONCURRENT TITLE II/ TITLE XVI SSI	24,738	139	1,074	509	20,968	1,278	23,968	4,812
TOTAL	93,906	537	4,488	1,700	76,549	4,923	88,197	19,533
CHANGE FROM SAME PERIOD LAST YEAR	+26,565	+282	+1,782	+116	+23,035	+27	+25,242	+6,699

1/ Includes requests for review and own motion cases.
* Preliminary

REQUESTS FOR REVIEW DISPOSITIONS BY PROGRAM 1/
FOR THE MONTH: September 01 - September 30, 1983

PROGRAM	DISPOSITIONS					
	AFFIRMED	REVERSED	DISMISSED	DENIED	REMAND	TOTAL
RSI	-	8	2	130	6	146
DI/DWIB	7	82	64	3,660	156	3,969
HI	-	2	1	73	8	84
BL	-	-	-	1	-	1
SSI ONLY	5	23	21	857	48	954
CONCURRENT TITLE II/ TITLE XVI SSI	3	51	47	1,623	96	1,820
TOTAL	15	166	135	6,344	314	6,974

CUMULATIVE: October 01, 1982 - September 30, 1983 1/

PROGRAM	DISPOSITIONS					
	AFFIRMED	REVERSED	DISMISSED	DENIED	REMAND	TOTAL
RSI	27	93	40	1,224	102	1,486
DI/DWIB	226	1,300	798	42,616	2,088	47,228
HI	2	40	10	388	78	518
BL	5	6	3	25	3	42
SSI ONLY	61	560	325	11,253	546	12,745
CONCURRENT TITLE II/ TITLE XVI SSI	109	806	508	20,949	1,088	23,460
TOTAL	430	3,005	1,684	76,455	3,905	85,479

1/ Preliminary.

OWN MOTION AND REOPENING DISPOSITIONS BY PROGRAM 1/
FOR THE MONTH: September 01 - September 30, 1983

PROGRAM	DISPOSITIONS					
	AFFIRMED	REVERSED	DISMISSED	DENIED	REMAND	TOTAL
RSI	-	5	-	-	-	5
DI/DWIB	4	68	1	4	89	166
HI	-	-	-	-	-	-
BL	-	-	-	-	-	-
SSI ONLY	-	1	-	1	2	4
CONCURRENT TITLE II/ TITLE XVI SSI	-	14	-	4	29	47
TOTAL	4	88	1	9	120	222

CUMULATIVE: October 01, 1982 - September 30, 1983 1/

PROGRAM	DISPOSITIONS					
	AFFIRMED	REVERSED	DISMISSED	DENIED	REMAND	TOTAL
RSI	5	31	1	2	6	45
DI/DWIB	66	1,131	10	59	794	2,060
HI	-	-	1	-	2	3
BL	-	-	-	1	-	1
SSI ONLY	6	53	3	13	26	101
CONCURRENT TITLE II/ TITLE XVI SSI	30	268	1	19	190	508
TOTAL	107	1,483	16	94	1,018	2,718

1/ Preliminary.

Office of Appeals Operations Performance and Staffing Report 1/

	Requests for Review					Bellmon Review					Total Cases					Average Analysts on Duty	Average Dispositions Per Analyst
	Receipts		Dispositions		Pending (End of)	Receipts		Dispositions		Pending (End of)	Receipts		Dispositions		Pending (End of)		
	Mo.	Cum	Mo.	Cum		Mo.	Cum	Mo.	Cum		Mo.	Cum	Mo.	Cum			
FY 1983																	
October	6670	6670	6604	6604	6077	1432	1432	1136	1136	994	8102	8102	7740	7740	7071	250	37.6
November	7172	13842	6500	13104	6719	1697	3129	1695	2831	987	8869	16971	8195	15935	7706	250	37.1
December	6562	20404	5639	18743	6615	1456	4585	1495	4326	1153	8018	24989	7134	23069	7768	273	28.9
1st Qtr.	20404	20404	18743	18743	6615	4585	4585	4326	4326	1153	24989	24989	23069	23069	7768	258	103.6
January	8492	28896	8483	27226	6497	1796	6381	1804	6130	1276	10288	35277	10287	33356	7773	281	39.6
February	8476	37372	7724	34950	6727	1754	8135	1478	7608	1515	10230	45507	9202	42558	8242	294	36.7
March	10009	47381	10367	45317	6357	1808	9943	1823	9431	1476	11817	57324	12190	54748	7833	293	46.7
2nd Qtr.	26977	47381	26574	45317	6357	5358	9943	5105	9431	1476	32335	57324	31679	54748	7833	289	123.0
April	7983	55364	9068	54385	5680	1397	11340	1492	10923	1397	9380	66704	10560	65308	7077	303	34.9
May	7095	62459	8637	63022	4807	2230	13570	3277	14200	1703	10135	76839	11914	77222	6510	303	39.3
June	9533	71992	9930	72952	6440	2008	15578	2005	16205	1706	11541	88380	11935	89157	8146	301	39.7
3rd Qtr.	24611	71992	27635	72952	6440	5635	15578	6774	16205	1706	31056	88380	34409	89157	8146	302	110.0
July	8418	80410	9585	82537	5339	1749	17327	1789	17994	1157	10167	98547	11374	100531	6495	302	37.7
August	8239	88649	10188	92725	4299	2025	19352	2297	20291	1608	10264	108811	12485	113016	5907	304	41.1
September	8329	96978	8380	101105	6940	2628	21980	2628	21980	1775	10987	119798	11008	124024	8715	292	37.7
4th Qtr.																	

1/ Does not include DCA.

AVERAGE PROCESSING TIMES BY PROGRAM
FOR THE MONTH: September 01 - September 30, 1983 1/

	ALL CASES		BLACK LUNG		DISABILITY		RETIREMENT AND SURVIVORS INSURANCE		HEALTH INSURANCE		SSI ONLY		SSI CONCURRENT	
	SEPT 83	SEPT 82	SEPT 83	SEPT 82	SEPT 83	SEPT 82	SEPT 83	SEPT 82	SEPT 83	SEPT 82	SEPT 83	SEPT 82	SEPT 83	SEPT 82
FROM REQUEST FOR REVIEW FILED TO:														
DISPOSITIONS	85	NA	-	NA	87	NA	79	NA	100	NA	85	NA	80	NA
DENIAL	79	NA	-	NA	82	NA	70	NA	95	NA	81	NA	72	NA
DECISION	165	NA	-	NA	165	NA	155	NA	190	NA	124	NA	180	NA
REMAND	105	NA	-	NA	95	NA	118	NA	132	NA	121	NA	116	NA
DISMISSAL	132	NA	-	NA	132	NA	187	NA	-	NA	120	NA	136	NA
AGE OF PENDING	243	NA	4,415	NA	183	NA	464	NA	186	NA	394	NA	283	NA

COMPLIANCE WITH TIME LIMIT REGULATIONS 2/

TOTAL NO. APPEALS COUNCIL DISPOSITIONS	DISPOSITIONS NOT IN COMPLIANCE		DISPOSITIONS WHERE EXCLUSIONS APPLIED	
	NUMBER	PERCENT	NUMBER	PERCENT
7,191	1,407	19.6%	7	0.1%

1/ Own motion cases are included in the calculation of FY 83 processing times. Lag time between the claim file receipt date and the AC disposition date is used in the calculation.

2/ From Case Control System; based on 90/30 day regulations.

CIVIL ACTIONS WORKLOADS
NEW COURT CASES TO DCA

	OPENING PENDING	RECEIPTS	DISPOSITIONS	CLOSING PENDING
September 1983	6,036	2,541	2,147	6,430
Fiscal Year to Date	2,016	22,725	18,311	6,430

Cases pending in U.S. Courts including OCSE cases for September
1/ SOURCE: SSA Monthly Litigation Report.

COURT REMANDS TO DCA

	OPENING PENDING	RECEIPTS	DISPOSITIONS	CLOSING PENDING*
September 1983	4,561	546	381	4,726
Fiscal Year to Date	3,397	5,079	3,750	4,726

* Includes court remands pending in the hearing offices.

COMPLIANCE WITH TIME LIMIT REGULATIONS*

TOTAL NUMBER OF DECISIONS/REMANDS ISSUED BY AC	NOT IN COMPLIANCE		EXCLUSIONS APPLIED	
	NUMBER	PERCENT	NUMBER	PERCENT
413	126	30.5%	54	13.1%

TOTAL NUMBER OF DECISIONS ISSUED AFTER RECOMMENDED DECISIONS	NOT IN COMPLIANCE		EXCLUSIONS APPLIED	
	NUMBER	PERCENT	NUMBER	PERCENT
322	139	43.2%	47	14.6%

HEARINGS HELD BY ALJS**			DECISIONS ISSUED BY ALJS**				
	NOT IN COMPLIANCE			NOT IN COMPLIANCE		EXCLUSIONS APPLIED	
TOTAL	NUMBER	PERCENT	TOTAL	NUMBER	PERCENT	NUMBER	PERCENT
287	135	47.0%	338	217	64.2%	83	24.6%

Based on numbers from the operating branches.
* Beginning January 1981 compliance and non-compliance is reported based upon the revised regulations for the AC.
** Based on 90/30 day regulations.

DISABILITY WORKLOAD TREND 1/
NATIONAL

	INITIAL CLAIMS			RECONSIDERED CLAIMS			HEARING REQUESTS	
	Processed 3/	Denied	Denial Rate	Processed 3/	Denied	Denial Rate	Filed 2/	Filing Rate
FY 75	---------	---------	-----	369,506	260,864	70.6%	135,202	51.8%
FY 76	1,819,261	757,485	41.6%	360,563	255,933	72.3%	143,196	56.0%
FY 77	1,731,969	856,290	49.4%	354,418	263,718	74.4%	171,325	65.0%
FY 78	1,613,457	860,608	53.3%	352,067	274,680	78.0%	184,479	67.2%
FY 79	1,648,276	949,282	57.6%	383,318	308,284	80.4%	210,465	68.3%
FY 80	1,695,906	1,024,302	60.4%	420,816	345,819	82.2%	239,171	69.2%
FY 81	1,602,809	1,007,640	62.9%	455,667	382,379	83.9%	269,937	70.6%
FY 82	1,429,734	930,482	65.1%	503,493	413,162	82.1%	305,678	74.0%
FY 83 Estimates 4/								
Ongoing	1,394,120	913,110	65.5%	387,175	334,132	86.3%	240,472	72.0%
CDRs	640,000	249,872	39.0%	92,000	77,648	84.4%	90,200	5/

1/ Includes title II, title XVI, and concurrent disability claims.
2/ Excludes Appeals Council and court remands and reinstatements.
3/ Source: State Agency Operations Report. Data includes only State Agency claims processed and denied and does not include district office technical denials. Data from SAOR report was adjusted to correct the double counting of concurrent DI/SSI cases. Because of this adjustment, denial rates should be viewed as close approximations.
4/ FY 83 estimates are as of March 29, 1983.
5/ Only DI CDRs go through the reconsideration process; the hearing filing rate is 64.3 percent (49,900). The DI-SSI and SSI CDRs do not go through the reconsideration process; the hearing filing rate is 46.2 percent (DI-SSI CDRs 8,600; SSI CDRs 31,700).

OHA STAFFING
AS OF: September 30, 1983

Region	Full-Time Permanent							Support Staff Ratio	"All Other" FTE[3]	Stay-In-School Summer Aids
	ALJ	Decision Writers	All Other Support	Interpreter	Total	Authorized Staff	Difference			
I	34	32	114	-	180	193	-13	4.2	17.2	10
II	110	125	391	16	642	649	-7	4.6	11.0	28
III	85	89	321	-	495	496	-1	4.8	14.8	8
IV	147	152	607	2	908	923	-15	5.1	21.6	21
V	141	137	510	-	788	796	-8	4.5	19.6	17
VI	81	77	318	-	476	470	6	4.8	3.0	14
VII	28	28	113	-	169	173	-4	5.0	2.8	7
VIII	16	13	56	-	85	91	-6	4.3	3.1	7
IX	97	88	369	1	555	564	-9	4.7	21.7	29
X	18	9	75	-	102	106	-4	4.6	2.8	5
National Hearing Office	4	2	9	-	15	18	-3	2.7	-	-
Sub - Total	761	752	2,883	19	4,415	4,479	-64	4.7	117.6	146
ORCALJ	10	40	195	7	252	266	-14	-	8.8	23
Total Field	771	792	3,078	26	4,667	4,745	-78	-	126.4	169
CENTRAL OFFICE -										
Ofc Assoc Commissioner[1]					22	31	-9	-	3.1	1
Equal Opportunity Staff					7	7	-	-	-	1
Ofc Chief Admin Law Judge					26	18	8	-	-	1
Ofc Policy Procedures					33	34	-1	-	1.0	2
Appeals Council[2]					84	82	2	-	2.1	2
Ofc Appeals Operations					614	593	21	-	6.3	13
Ofc Mgmt Services					317	325	-8	-	8.7	2
Ofce Appraisal					29	31	-2	-	.6	1
Ofc Field Administration[4]					67	47	20	-	2.0	-
Total Central Office					1,199	1,168	31	-	23.8	23
Total OHA					5,866	5,913	-47	-	150.2	192

1/ Includes Immediate Office of the Associate Commissioner, Executive Secretary and Special Counsel
2/ Includes Vocational Consultant Program Staff
3/ FTE = Full-Time Equivalent (Temporaries, Part-Time, WAE)
4/ Includes GRP
5/ Will be adjusted to new ceiling of 5,890.

Note: Excludes employees on LWOP in excess of 30 days.

82-1371

II/II A

CASE FILE COPY

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Administrative Appeals Process Under Title II and Title XVI of the Social Security Act; Time Limitations for Issuing Hearing Decisions and Actions by the Appeals Council

AGENCY : Social Security Administration, HHS

LODGING

ACTION : Final Rule

SUMMARY: These final regulations revise the regulations on the administrative appeals process under title II (Federal Old-Age, Survivors and Disability Insurance) and title XVI (Supplemental Security Income for the Aged, Blind and Disabled) of the Social Security Act to provide specific time limits within which (1) a hearing decision will be issued after a hearing request is filed, and (2) the Appeals Council will act (a) in response to a request for review of a hearing decision or dismissal, (b) after taking own motion review of a hearing decision or dismissal, or (c) pursuant to remand by a Federal court.

These changes will also affect rules for proceedings with respect to entitlement of claimants to, and amounts in controversy of, hospital insurance benefits under title XVIII, Part A, and enrollments and termination of enrollment for supplementary medical insurance benefits under title XVIII, Part B. For the Medicare program the Office of Hearings and Appeals will therefore apply the time limits to hearings and Appeals Council actions affecting those matters and, in addition, will apply those time limits to hearings and Appeals Council actions involving (1) the amount of health payments under title XVIII, Part

Exh. A to Def't's Opposition to Plt's' Motion for Order Compelling Discovery and Motion to Direct Entry of Final Judgment (Oct. 22, 1980)

A and (2) claimant appeals from Professional Standards Review Organization's determinations under section 1159.

Under these final regulations, a hearing decision will be issued within 165 days after a request for hearing is filed. The Appeals Council will be required to take a specific action within 90 days after a request for review is filed. Where the Appeals Council reviews a hearing decision or dismissal on its own motion subsequent action will be taken by the Appeals Council within 30 days of the expiration of the period for claimant comments or submission of additional evidence, as provided in the notice to the claimant of the proposed action. Time periods are also provided for taking action on court remands. Specific time extensions are provided which are discussed under Supplemental Information.

The Notice of Proposed Rule Making (NPRM) containing proposed regulations providing time limitations for actions at the hearings and Appeals Council levels was published in the Federal Register on Feb. 27, 1980 (45 FR 12837) with a 60 day comment period.

DATES: The amendments are effective for (1) hearing requests and requests for Appeals Council review filed, (2) Appeals Council remands issued and court remands received, and (3) Appeals Council reviews on its own motion, after the date the final regulations are published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Robert Stearn, Policy Analyst, Division of Program Development; Office of Hearings and Appeals; Room 106, Webb Building; 4040 N. Fairfax Drive; Arlington, Virginia 22203; (703) 235-

8520.

SUPPLEMENTARY INFORMATION:

Introduction

Over the last several years concern has been expressed by the general public, representatives of individuals in social security matters, the Congress, and the courts over delays in holding social security hearings, issuing hearing decisions and the reviews of the decisions. As a result we have taken a number of administrative and managerial steps in an effort to control the backlog and improve our service to the public. Specifically, we have increased the number of Administrative Law Judges (ALJs) from 478 in fiscal year 1974 to 629 in fiscal year 1978 and to 690 at present, including a new class about to enter on duty, and are recruiting for more; as a new resource, we have added 400 staff attorneys to provide professional assistance to the ALJs; we have assigned central office analysts to assist the ALJs; and we have provided additional clerical employees in the hearing offices. Also, we have upgraded equipment in the hearing offices to expedite issuing decisions. In addition, we are working to improve our case control system to provide better management control of the caseload.

The overall impact of these initiatives is that ALJ dispositions have increased on the average per ALJ from 17 per month in fiscal year 1976 to 31 by May 1980, a record high in decision productivity. As a result of the steps we have taken, we have also decreased the delays which previously occurred before a hearing is held or a hearing decision is

issued from over 200 days in fiscal year 1976 to approximately 150 days in the current fiscal year. Also we are expediting claimants' requests for Appeals Council review of the hearing decisions, reducing average processing time from 72 days in fiscal year 1979 to 65 days in fiscal year 1980.

Despite these improvements we can expect the time between the receipt of a request for hearing and a final decision to increase because of record receipts of hearing requests and a resultant increase in pending cases. However, in order to assure the public that there will not be unnecessary delays in issuing hearing decisions and Appeals Council reviews, we are establishing by regulation, specific time limits for the issuance of hearing decisions and reviews by the Appeals Council.

This concept of having specific time limits has been endorsed by the Administrative Conference of the United States. The Administrative Conference recommended that "each affected agency adopt time limits or guidelines for the prompt disposition of its adjudicatory . . . actions, either by announcing schedules for particular agency proceedings or by adopting regulations that contain general timetables for dealing with categories of the agency's proceedings." The Administrative Conference believes that timetables or deadlines established by individual agencies to govern their own proceedings can be useful tools for reducing delays and are preferable to more rigid statutory time limits. Also, Congress has required the Secretary to submit a report to Congress recommending appropriate time limits for various levels of adjudication (the Social Security Disability Amendments of 1980; P.L. 96-265).

Some courts have issued decisions or orders mandating that hearings and other actions be held or completed within specific time limits. The court orders differ as to the specific time limits mandated and the types of cases covered. Compliance with these orders sometimes requires us to direct our staff to the jurisdiction affected and this decreases our staff available elsewhere, often with an adverse impact on other claimants. In a national program there should be a uniform level of service to the public. Thus, we believe that uniform time periods for issuing hearing decisions, and reviewing decisions, will increase the efficiency of the administrative appeals process.

Currently, under title II and title XVIII of the Social Security Act, there are no specific time limits within which a hearing must be held or a decision issued. The existing regulation provides only that an Administrative Law Judge shall issue a decision as soon as practicable after the close of a hearing. Similarly there are no specific time limits within which the Appeals Council must act on an individual's request for review of a hearing decision or dismissal of a request for hearing, or when the Appeals Council reviews on its own motion.

Under title XVI of the Social Security Act, there is a statutory requirement that a hearing be held and a decision be issued within 90 days after a hearing is requested in cases involving nondisability issues. This requirement is set out in current regulations as well as provisions for situations in which delays occur. (See 20 CFR 416.1455). These provisions will not be affected by the proposed regulations.

Title XVI does not provide specific time limits within which a hearing must be held and decision issued in disability cases. The regulations require only that the Administrative Law Judge shall issue a decision as soon as practicable after the close of a hearing. (See 20 CFR 416.1457.) There are no specific time limits set out in the regulations within which the Appeals Council must act on an individual's request for review of a hearing decision or dismissal in either a disability or nondisability case, or when the Appeals Council reviews on its own motion.

The NPRM was issued after having been reviewed by the United States District Court for the Western District of Kentucky in Blankenship v. Secretary of HEW, Civil No. C75-0185-L(A), a proceeding in Kentucky in which the timeliness of SSA hearings was at issue.

The NPRM would have basically required that a hearing be held within 90 days after a request for hearing is made and that a hearing decision be issued within 30 days after the hearing was held and the record closed. Under the proposed regulations, the Appeals Council had 90 days to take a specific action after a request for review was filed or own motion review taken. Time limits were also provided for taking actions in cases remanded by the courts. The proposed regulations also provided specific exceptions in situations where there is a need for additional evidence to be obtained and for other reasons, such as for the claimant not being available for the scheduled hearing, for the claimant to have additional time to file a brief, or for reassignment of a case because of the death or extended illness of the ALJ.

Although the proposed regulations were published as an NPRM, the Secretary ordered SSA to begin immediately to use the time limits specified in the NPRM, to determine the degree of compliance SSA could achieve. The Blankenship court, in reviewing the NPRM, stated, that "in the event that any adjustments to the proposed regulations are found necessary . . . as a result of experience under the experimental implementation of those proposed regulations, the defendants shall inform the Court of such adjustments and the reasons therefor."

Thus, when the NPRM was published it was recognized by the Secretary and the court that changes in the time limits might be required based on SSA's actual experience operating under them.

We began operating under the time limits on October 1, 1979. Our experience during the first half of calendar year 1980 demonstrated that we could provide hearings within the time limits in the NPRM in approximately 70 percent of the cases and issue decisions in approximately 80 percent of the cases. It also became apparent that with our increasing workload, we would be in compliance in a decreasing percentage of the cases.

At the time the proposed regulations were submitted for court approval, there were approximately 88,000 hearing requests pending. While increased hearing filings were beginning to materialize, there was no basis for concluding that the increase would continue. Previously there was a pattern of a stabilizing hearing workload. Thus, when the NPRM was submitted to the Blankenship court for its review and approval,

there was a reasonable expectation that we could comply with the proposed time limitations. Subsequently, the number of requests for hearing received continued to increase substantially. To illustrate, the incoming receipts during the first nine months of fiscal year 1980 were as follows:

October	21,236	February	19,618	June	20,742
November	19,018	March	20,707		
December	17,286	April	20,734		
January	20,938	May	21,721		

During the first 9 months of fiscal year 1979, average monthly receipts were approximately 18,000.

This reflects a sharply rising increase in the workload. By July 1980 over 103,000 hearing requests were pending, and July receipts were 22,000, a record high. It is estimated that 263,000 hearing requests will be filed in FY 1981 (a monthly average of 22,000). The estimate for FY 1980 was 238,500 hearing filing or a monthly average of 19,900. In the first 9 months of FY 80 183,826 hearing requests were filed; a monthly average of 20,425, as compared with average monthly receipts of approximately 18,000 hearing requests in fiscal year 1979.

Based on operating experience over the last year and the present size of the Administrative Law Judge corps, we have the capability of disposing of approximately 20,000 hearing requests per month. Thus, considering the current pending workload, which results in delay before the ALJ is able to act on the request, it takes approximately 160 days for a hearing request to get through the current process. Also, as

we mentioned, receipt of hearing requests is continuing at a high level, and fairness to claimants requires that cases received first be acted on before claims received later. In addition, the recent enactment of disability legislation (P.L. 96-265) will likely further increase hearing receipts significantly. The legislation requires the Secretary to (1) review a specific percentage of State Agency disability allowances prior to payment and (2) with some exceptions, review disability cases at least once every three years. With the hearing workload on hand, the average decision time will be approximately 160 days, at least 40 days in excess of the combined 90 days for scheduling of hearings and 30 days for issuing decisions as provided in the NPRM.

However, while the Administrative Law Judge corps has significantly increased its productivity (ALJ average dispositions have increased from 27 per month in FY 1979 to 31 in May-July 1980), and some limited additional increases are expected in the future, the increased filings of hearing requests have exceeded our production capability. Between October 1, 1979 and July 1, 1980, we have appointed 68 new Administrative Law Judges and 31 have terminated their appointments. This leaves a net increase of 37 Administrative Law Judges. (The ALJs appointed during this period were the maximum number we were able to appoint from the limited Office of Personnel Management (OPM) ALJ register.) An additional 28 new Administrative Law Judges have been appointed and will enter on duty in September 1980. It takes a new Administrative Law Judge from 6 to 9 months to be fully productive. Even with the increase in Administrative Law Judges on duty, there will not be a sufficient number available to meet the demands of the increasing hearing

filings and to comply with the time limits proposed in the NPRM. While part of the answer to dealing with increasing workloads is to appoint additional Administrative Law Judges, the OPM's Register of Administrative Law Judge candidates is not presently adequate to meet our needs. For example in September 1980 we were authorized to recruit 62 new ALJs. However, due to the limited OPM register, we were able to hire only 28 new ALJs. We have made, and will continue to make, a concerted effort to interest potential candidates to file for the Administrative Law Judge position. However, it will take 6 months or more before the potential candidates will appear on this register. In addition, even if our efforts prove successful, there will still be a 6 to 9 month gap before the new Administrative Law Judges become fully productive. Thus, if we were to adopt the time limits proposed in the NPRM we would be making a commitment to the public which we could not realistically meet.

The primary purpose of the regulation is to inform the public of the degree of service they can expect and generally are entitled to receive. We intend to make a concerted effort to provide hearings and decisions as expeditiously as possible consistent with full development of pertinent facts and accuracy in decision-making. For example, we will closely monitor the workload in the hearing offices and will experiment with various methods of improving administrative law judge utilization of staff attorneys and other support staff as a method of making further increases in productivity.

In addition to hearings and Appeals Council actions under title II and title XVI of the Social Security Act, these time limits will also be

applied to (1) claimants' appeals involving entitlement under the Medicare program, and the amount of health care payments under title XVIII, Part A of the Social Security Act, and (2) appeals by claimants from Professional Standards Review Organizations' determinations under section 1159 of title XI. The time limits will not apply to (1) appeals under section 1869(c) by health care facilities dissatisfied with adverse provider certification determinations, (2) appeals by certain other providers of services (42 CFR 405.1501), and (3) appeals by providers who disagree with the Secretary's refusal to waive the provisions of the Life Safety Code of the National Fire Protection Association (section 1861(j)(13) of the Act).

Basic Rules

In the final regulations we are specifying that a hearing decision will be issued within 165 calendar days of the filing of the request for hearing. This represents approximately 115 workdays. The 165 day time limit will be extended where (1) additional evidence must be secured, (2) a claimant is unable to attend a scheduled hearing, (3) a claimant requests time to secure additional evidence or file a brief, or take some other action pertinent to the claim and (4) a case is reassigned after a hearing has been held due to the unavailability of the Administrative Law Judge who held the hearing. These extensions were addressed in the NPRM. Experience has shown that a single total overall time limit from the date the claimant files a request to a decision on the claim affords advantages to claimants and Administrative Law Judges which are not provided under a separate time limit from the request to the hearing and from the hearing to the decision. The single

time limit will permit Administrative Law Judges more flexibility in conducting their major functions; i.e., holding hearings and issuing decisions. This flexibility will permit the Administrative Law Judges to make the best use of their time, give them the best opportunity to maximize their productivity, and thus expedite their service to the public. A single time limit also simplifies the regulations and will promote better public understanding of SSA's hearing processes. The public is primarily interested in the total time it takes to get a decision after a request for hearing rather than in the time it takes for intermediate steps in the hearing process.

The special provision for time limits for issuing a hearing decision where a hearing is not held has been deleted and these cases will now come under the single time limit. This change will have the effect of treating all claimants equally, i.e., no claimant will be taken out of turn based on the normal and equitable method of handling cases on a first-in first-out basis. However, since a hearing will not be required, it is anticipated that such decisions will be issued in a considerably shorter time than 165 days. Priority will be given by the Administrative Law Judges to cases remanded by the Appeals Council either on the Council's own initiative or pursuant to a court order by virtue of their greater age.

The time limit for issuance of hearing decisions will be reviewed annually. Commencing with December 1981 and each December thereafter we will publish a notice (or where appropriate, an NPRM) in the Federal Register stating the time limit goal for the forthcoming year. SSA

remains committed to providing the most expeditious service practicable while at the same time fulfilling a commitment to assure the accuracy and quality of its decisions and according every claimant a full and fair opportunity to present his case. In a dynamic program with many conditions beyond our control, it would be inadvisable as well as misleading to make future time limit commitments. To illustrate, we cannot predict with accuracy such matters as (1) the effect on hearing filings of the recently enacted 1 80 disability amendments (P.L. 96-265) or of fluctuations in the national economy, (2) availability of candidates for Administrative Law Judge positions, (3) budgetary restrictions, (4) the complexity of future cases, or (5) the impact of future legislation. Thus, an annual review and realistic time limits for each year will insure that the public will have current information about the level of service they can expect. Nevertheless, every effort will be made to achieve a steady reduction in hearing time consistent with fairness to claimants and assuring them an opportunity to fully present their cases.

Experience to date has shown that the proposed time limits for actions at the Appeals Council review level are both desirable and realistic goals. Accordingly, no changes have been made in the final regulations regarding actions by the Appeals Council on review of Administrative Law Judge decisions and dismissals.

With regard to time limits for actions on remands from Federal courts, we have increased by 15 days the period for Appeals Council remands of these cases to Administrative Law Judges and for Appeals Council action on Administrative Law Judges' recommended decisions. Experience

has shown that with time lost in the Appeals Council's receipt of the remand order and time lost in transit between 126 hearing offices throughout the country and the Appeals Council located in Arlington, Virginia, an additional 15 days is needed to insure that proper consideration is given to the issues presented. We have also provided an extension of the time limits where the Appeals Council must seek clarification of a remand order by the court or the Appeals Council seeks appeal of a remand order. Such clarification or appeal shall be requested by the Appeals Council within 30 days after the Secretary receives the remand order.

Other Changes in the Regulations

The NPRM required that if the Administrative Law Judge requested additional evidence prior to the hearing, the request would be made within 45 days of the filing of the request for hearing and the hearing would be held within 30 days of the receipt of the additional evidence. Since the final regulations provide a single time limit from request for hearing to hearing decision, the provision for scheduling the hearing within 30 days of the receipt of the additional evidence is not required. As to requesting additional evidence, the final regulations provide that the time limit shall be extended by the period from the date of the request to the receipt of the evidence. This is similar to the provision in the NPRM. The fact that the length of the extension would be the same regardless of when the evidence is requested, minimizes the need to provide a time limit in which the evidence should be requested. This affords the Administrative Law Judge desired flexibility in handling his or her workload while avoiding any possibility that

any Administrative Law Judge might not request needed evidence where the time specified had past. That possibility could adversely affect a claimant's right to have all relevant evidence considered at the hearing. As a matter of practice, any additional evidence needed will be requested as soon as the case is reviewed and the need is identified.

Although we have generally eliminated intermediate processing times in the final regulation, we have retained the provision for the Administrative Law Judge to request additional evidence after the hearing is held. We have modified this provision to state that the Administrative Law Judge shall request this additional evidence within 30 days of the hearing or within 165 days of the hearing request, whichever is earlier.

The NPRM provided a time limit for the issuance of a decision where no oral hearing was held and for the scheduling of a supplemental hearing. Both provisions are deleted from the final regulation. To the extent feasible as noted earlier, hearing requests are and will be processed in the order in which filed.

If no oral hearing has been requested, the Administrative Law Judge, based on the pending workload, may not reach the case in 90 days (the time limit which was provided in the Notice of Proposed Rule Making for a decision when no oral hearing is held). Until the Administrative Law Judge reviews the case or evidence requested is received, the Administrative Law Judge would not be in a position to decide that a favorable decision could be issued without holding a hearing. Also,

if a hearing on the record is requested, the Administrative Law Judge may not reach the case within the 90-day time limit because cases are handled normally on a first-in first-out basis. For these reasons, it was felt that we should eliminate this special time limit. However, in practice, since no hearing need be held, the on-the-record decision will normally be issued in less time than the 165 days.

With regard to the holding of a supplementary hearing, it was felt that such hearing should be held within the overall 165-day time limit and no extension of time is warranted.

Response to Public Comments

In response to the NPRM we received 44 comments: 37 from legal aid and social service organizations, 3 from administrative law judges, 1 from the Association of Administrative Law Judges and 3 from other members of the public. Generally the public comments were supportive of SSA's efforts to establish time limits for hearing and Appeals Council actions. However, there were a number of suggestions to improve handling of cases under the time limits.

Discussion of Comments

Comment - A number of commenters recommended that if the time limit is not met in a hearing case, payment of benefits should be initiated.

Response - Social security and supplemental security income benefits are payable only to individuals who meet the factors of eligibility specified by law. The Secretary may authorize payment of benefits only

if the eligibility factors specified are met. The Social Security Administration does not have explicit statutory authority to pay benefits until eligibility has been established (though one circuit has directed payments). Thus, SSA could not initiate payment of benefits even if the time limit specified for issuing a hearing decision was not met.

The lack of legal authority to provide benefits in these circumstances reflects the importance and congressional intent that benefits go only to those who are entitled to receive them. In this regard, in about half of the hearing cases, benefits are denied. Payment in time delayed cases would result in the making of substantial overpayments which would be difficult, if not impossible, to recover. This would result in a drain of the trust fund or general revenues and would be contrary to public policy.

Comment - Some commenters felt it takes too much time for SSA to initiate payment of benefits after the hearing decision is issued. A few commenters felt that a time limit should be provided for the initiation of payment of benefits.

Response - We recognize that some delays have occurred in the initiation of payment after a favorable decision. We are aware of this problem and a number of changes in processing and procedures have been made to insure that payment begins as expeditiously as possible. This process is being monitored to insure that delays are kept to a minimum. We do not believe that it is practical to provide in regulations for a time limit within which benefit payments must begin. In some cases additional information must be obtained before the amount of the benefit

can be determined accurately.

Comment - A few commenters felt that the imposition of time limits for actions at the hearing level could result in cases being heard and decisions issued without providing the claimant or his or her representative sufficient time to obtain and present all of the evidence necessary to support the claim.

Response - It was recognized in drafting the time limit regulations that providing rigid time limits which had to be met without exception would work to the disadvantage of the claimant wishing to obtain additional evidence, witnesses or representation. Therefore, the regulations provide for the extension of time granted the claimant/or representative for such purposes as obtaining additional evidence or witnesses, or otherwise preparing the case. In addition, if the Administrative Law Judge believes additional evidence is needed, an extension of the time limits is specifically provided for. Thus, the time limit regulations will not disadvantage a claimant who needs more time to fully prepare his or her case.

Comment - Some commenters felt that the claimant should be provided with general notice of the time limits as well as a specific notice with the reasons and an opportunity to object, any time an action is taken which triggers an extension of time.

Response - Once the time limit regulations become effective, we will provide public information materials on the time limits. Providing notices when an action is being taken which will extend the time limit with opportunity to object, would delay action in the case and the

rendering of the final action. This would be counter to timely service to the public, the purpose of the regulation.

Comment - A number of commenters felt that the provision for an extension of time for "uncontrollable circumstances" was too broad and could result in abuse by SSA.

Response - The final regulations do not include a provision for an extension of time for uncontrollable circumstances, except for the one already in the regulations for title XVI cases (primarily because of the statutory requirement that hearing decisions in nondisability cases be issued within 90 days). With an overall 165 day time limit for issuing a hearing decision, rather than the 90-30 day provisions contained in the NPRM, the Administrative Law Judge will have greater flexibility in handling any unusual or unexpected delays. Also, we feel that rarely would uncontrollable circumstances affect our ability to issue a decision within the time frame. Further, the work and time that would be involved in petitioning the Chief Administrative Law Judge or his or her delegate for extensions would take time away from processing cases.

Comment - Some commenters recommended that we revise the regulations to specify time limits for initial and reconsideration determinations.

Response - We are considering ways in which initial and reconsideration determinations may be improved, including more prompt issuances. If we should determine that time limits comparable to those for cases at the hearing level are appropriate for initial and reconsideration

determinations, we will issue regulations to implement the revisions, and they will be published separately with an NPRM. The NPRM will give members of the public an opportunity to comment on the regulations before they become final.

We also received comments which are not now relevant because of the changes we have made in the final regulation. These comments concerned certain of the intermediate time limits which we have eliminated in order to simplify the rules to better enable the Administrative Law Judge to manage this workload. These changes are discussed in detail in the "other changes" section of the preamble.

Judge to manage this workload. These changes are discussed in detail in the "other changes" section of the preamble.

The amendments set forth below are issued under the authority contained in secs. 205(a), 1102, 1159,1631, 1869 and 1872 of the Social Security Act, as amended (53 Stat. 1368, 49 Stat. 647, as amended 86 Stat. 1439, 86 Stat. 1475, 79 Stat. 330, 79 Stat. 332, 42 U.S.C. 405(a), 1302, 1320c-8, 1383, 1395ff, 1395ii).

(Catalog of Federal Domestic Assistance Program Nos. 13.800 Health Insurance, Aged, Blind, and Disabled--13.802 Social Security--Disability Insurance; 13.803 Social Security--Retirement Insurance; 13.804 Social Security--Special Benefits for Persons Aged 72 and Over; 13.805 Social Security--Survivors' Insurance; 13.807--Supplemental Security Income).

Dated: AUG - 6 1980

William J. Driver
Commissioner of Social Security

Approved: AUG 21 1980

/s/Patricia Roberts Harris
Secretary of Health and Human Services

Chapter III of title 20 of the Code of Federal Regulations is amended as follows:

Part 404--Federal Old-Age, Survivors, and Disability Insurance

1. Following § 404.939, a new § 404.939a is added to read as follows:

§ 404.939a Time Limit for issuing a hearing decision.

The Administrative Law Judge shall issue a hearing decision within 165 calendar days after a request for hearing is filed. Where additional evidence is needed, the claimant is unavailable for the scheduled hearing, claimant requests time to submit additional evidence/or a brief or to prepare for a hearing or to take some additional action with respect to the clain, the time for issuance of the hearing decision shall be extended as set forth below:

(a) Claimant unavailable for hearing.

(1) If a hearing is scheduled and the claimant or his or her representative is not available on that date, the claimant or the representative will notify the Administrative Law Judge when he or she will be available for the hearing. If good cause is established, the Administrative Law Judge shall reschedule and hold the hearing within 45 days after the Administrative Law Judge is informed that the claimant or the representative (if there is one) is available for the hearing, or within 30 days if the claimant is willing to travel to the

hearing office.

(2) If no hearings are scheduled to be held in the area of the claimant's residence within the 45-day period, the hearing shall be scheduled for the next hearing trip the Administrative Law Judge makes to the area of the claimant's residence. The time period for issuing the hearing decision shall be extended by the number of days beginning with the date the hearing was originally scheduled until the date of the new hearing.

(b) Request for additional evidence prior to hearing.

If the Administrative Law Judge requests additional evidence prior to the hearing, the time limit for issuing the hearing decision shall be extended by the number of days from the date the evidence is requested until the date the evidence is received by the Administrative Law Judge.

(c) Claimant requests additional time prior to hearing.

If the claimant requests additional time to submit more evidence, or to obtain witnesses or representation, the time period for issuing the hearing decision shall be extended to cover the additional time granted.

(d) Request for additional evidence after the hearing is held.

If the Administrative Law Judge requests additional evidence, it shall be requested within 30 days of the hearing or within

165 days of the filing of the hearing request, whichever is earlier. The time limit for issuing the hearing decision shall be extended by the number of days from the date the evidence is requested until the period the evidence is obtained, if the evidence is requested from the claimant, or until the period for claimant comment on the evidence has ended, if the evidence is requested from someone else.

(e) Claimant requests additional time after the hearing.

If the claimant wishes to submit additional evidence or written statements of fact or law, the time period for issuing the hearing decision shall be extended to cover the time granted.

(f) Reassignment after a hearing has been held.

If it is necessary to reassign a case to another Administrative Law Judge due to the unavailability of the original Administrative Law Judge (e.g., resignation, retirement, illness), the case shall be promptly reassigned. If a supplemental hearing is not required, the time for issuing the hearing decision shall be extended by the number of days beginning with the date of the hearing until the date of reassignment. If the Administrative Law Judge to whom the case is reassigned determines that another hearing is necessary, the hearing shall be scheduled promptly and the hearing decision shall be issued within 90 days after the date of reassignment.

2. Following § 404.946, new §§ 404.946a and 404.946b

are added to read as follows:

§ 404.946a Time limit for Appeals Council action on request for review.

Within 90 days from the date a request for review is filed, the Appeals Council shall dismiss, deny or grant the request.

§ 404.946b Time limit for Appeals Council action after review is granted.

If the Appeals Council grants a request for review the following time limits apply:

(a) The Appeals Council issues a decision. The Appeals Council shall issue a decision within 30 days after the claimant's reply to the Appeals Council's notice of proposed action is received. The notice of proposed action is sent with th Appeals Council notice granting review. If no reply is received, the Appeals Council shall issue the decision within 30 days after the end of the period for reply.

(b) Additional evidence is needed. (1) If the Appeals Council requests additional evidence, it shall do so within 45 days after it grants the request for review. If after it receives additional evidence the Appeals Council decides to issue a decision (rather than remand the case to an Administrative Law Judge), the decision shall be issued within 30 days after the claimant comments on the evidence. If no comment is received, the decision shall be issued within 30 days after the end of the comment period.

(2) If after the evidence or comments are received, the Appeals

Council determines still further evidence is needed, and then decides to issue a decision (rather than remand the case to an Administrative Law Judge), the decision shall be issued within 30 days after the claimant's comments are received on the additional evidence. If no comments are received, the decision shall be issued within 30 days after the end of the comment period.

(c) Remand to the Administrative Law Judge. If the Appeals Council decides to remand a case to the Administrative Law Judge, the case shall be remanded within 30 days from the date the Appeals Council grants the review. If the Appeals Council requests additional evidence and then decides to remand the case to the Administrative Law Judge, the case shall be remanded within 30 days after the Appeals Council receives the evidence and the claimant's comments, if any.

3. Following § 404.950, new §§ 404.950a through 404.950d are added to read as follows:

§ 404.950a Time limits for issuing hearing decisions in cases remanded by the Appeals Council.

If the Appeals Council remands a case to the Administrative Law Judge (except for cases remanded by a court), the time limits for issuing a hearing decision (including the extensions provided) specified in section 404.939a shall be applicable, except the time limit shall begin as of the date the Appeals Council remands the case to the Administrative Law Judge.

§ 404.930b Time limits for issuing hearing decisions in cases remanded by a court.

If a court remands a case to the Secretary, the following time limits shall apply (except where the court sets other time limits):

(a) Appeals Council issues decision. If the Appeals Council determines that it can issue a decision from the evidence in the record, the decision shall be issued within 30 days after the Secretary receives the court's remand order.

(b) Appeals Council requests additional evidence. If the Appeals Council decides additional evidence is needed, the Appeals Council shall request it within 30 days after the Secretary receives the court's remand order. The Appeals Council shall issue a decision within 30 days after the evidence is entered into the record.

(c) Appeals Council remands case to Administrative Law Judge. If the Appeals Council decides to remand a case to an Administrative Law Judge, it shall do so within 45 days after the Secretary receives the court's remand order. If the Appeals Council remands a case to an Administrative Law Judge for the holding of a hearing/or the issuance of a hearing decision, the time limit specified in 404.939a and extensions thereof shall be applicable, except that the time limit shall begin as of the date the Appeals Council remands the case to the Administrative Law Judge.

(d) Administrative Law Judge returns case with the recommended decision to Appeals Council. The Appeals Council shall issue a decision,

adopting, modifying or rejecting the Administrative Law Judge's recommended decision within 45 days after the expiration of the time period within which the claimant may submit comments. If after receiving the recommended decision issued by the Administrative Law Judge the Appeals Council wishes to obtain additional evidence, the time limits in § 404.946b(b) shall apply, except that the time limit shall begin as of the date the Appeals Council receives the Administrative Law Judge's recommended decision.

(c) Clarification or appeal of remand order. Where clarification of a remand order is required or appeal requested, the Appeals Council shall request such clarification or appeal within 30 days after the Secretary receives the remand order.

§ 404.950c Time limit for action by the Appeals Council if it reviews a hearing decision on its own motion or reopens a decision.

If the Appeals Council reviews a decision on its own motion or reopens a decision it will--

(a) Issue a decision within 30 days after the expiration of the period for comment on the Appeals Council's notice to reopen or take own motion review; or

(b) Request any additional evidence within 45 days of granting the review or reopening a decision and issue its decision within 30 days after the end of the period for receiving comments on any additional evidence the Appeals Council requested; or

(c) Remand the case to the Administrative Law Judge within

30 days after it has notified the claimant that it is reviewing the decision or within 30 days after the receipt of additional evidence. In this case, the time limits in § 404.950a will apply.

§ 404.950d Exceptions to time periods for action by the Appeals Council.

If a claim is pending before the Appeals Council and the claimant requests time to review the record or submit additional evidence or a brief, the time period for action by the Appeals Council will be extended by 30 days or the period of delay, whichever is greater.

PART 416--SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

4. Section 416.1455 is revised to read as follows:

§ 416.1455 Time limit for issuing a hearing decision in cases not involving the existence of disability.

(a) In cases not involving the existence of a disability, the Administrative Law Judge shall hold a hearing and issue a decision within 90 days after the filing of a request for a hearing. (If the matter in disagreement involves the existence of a disability, see § 416.1455a for the applicable time limits for issuing hearing decisions.)

(b) The Administrative Law Judge may not be able to issue the hearing decision within 90 days in some cases. Therefore, the 90-day time period may be extended for good cause as follows:

(1) Claimant's actions. Where delays are caused by the claimant or his or her representative, the time period for the decision may be

extended by the total number of days involved in the delays. Examples of delays include, but are not limited to:

The claimant's delay, or the delay of any other party in giving evidence, submitting briefs or other statements, and postponements or adjournment of the hearing at the claimant's request or the request of any other party.

(2) Other delays. Where delays occur through no fault of the Secretary (e.g., acts of God), these facts will be considered good cause for extending the time period for issuing the decision, and the decision will be issued as soon thereafter as practicable.

5. After § 416.1455, a new § 416.1455a is added to read as follows:

§ 416.1455a Time limit for issuing a hearing decision in disability cases.

The Administrative Law Judge shall issue a hearing decision within 165 calendar days after a request for hearing is filed. Where additional evidence is needed, the claimant is unavailable for the scheduled hearing, the claimant requests time to submit additional evidence and/or a brief or to prepare for a hearing or take some additional action with respect to the claim, the time for issuance of the hearing decision shall be extended as set forth below:

(a) Claimant unavailable for hearing. (1) If a hearing is scheduled and the claimant or his or her representative is not available

on that date, the claimant or the representative will notify the Administrative Law Judge when he or she will be available for the hearing. If good cause is established the Administrative Law Judge shall reschedule and hold the hearing within 45 days after the Administrative Law Judge is informed that the claimant or the representative (if there is one) is available for the hearing or within 30 days if the claimant is willing to travel to the hearing office.

(2) If no hearings are scheduled to be held in the area of the claimant's residence within the 45-day period, the hearing shall be scheduled for the next hearing trip the Administrative Law Judge makes to the area of the claimant's residence. The time period for issuing the hearing decision shall be extended by the number of days beginning with the date the hearing was originally scheduled until the date of the new hearing.

(b) Request for additional evidence prior to hearing. If the Administrative Law Judge requests additional evidence prior to the hearing, the time limit for issuing the hearing decision shall be extended by the number of days from the date the evidence is requested until the date the evidence is received by the Administrative Law Judge.

(c) Claimant requests additional time prior to hearing. If the claimant requests additional time to submit more evidence, or to obtain witnesses or representation, the time period for issuing the hearing decision shall be extended to cover the additional time granted.

(d) Request for additional evidence after the hearing is held. If the Administrative Law Judge requests additional evidence, it shall

be requested within 30 days of the hearing or within 165 days of the filing of the hearing request, whichever is earlier. The time limit for issuing the hearing decision shall be extended by the number of days from the date the evidence is requested until the period the evidence is obtained, if the evidence is requested from the claimant, or until the period for claimant comment on the evidence has ended, if the evidence is requested from someone else.

(e) Claimant requests additional time after the hearing. If the claimant wishes to submit additional evidence or written statements of fact or law, the time period for issuing the hearing decision shall be extended to cover the time granted.

(f) Reassignment after a hearing has been held. If it is necessary to reassign a case to another Administrative Law Judge due to the unavailability of the original Administrative Law Judge (e.g., resignation, retirement, illness), the case shall be promptly reassigned. If a supplemental hearing is not required, the time for issuing the hearing decision shall be extended by the number of days beginning with the date of the hearing until the date of reassignment. If the Administrative Law Judge to whom the case is reassigned determines that another hearing is necessary, the hearing shall be scheduled promptly and the hearing decision shall be issued within 90 days after the date of reassignment.

6. Following § 416.1464, new §§ 416.1464a and 416.1464b are added to read as follows:

§ 416.1464a Time limit for Appeals Council action on request for review.

Within 90 days from the date a request for review is filed, the Appeals Council shall dismiss, deny or grant the request.

§ 416.1464b Time limit for Appeals Council action after review is granted.

If the Appeals Council grants a request for review the following time limits apply:

(a) The Appeals Council issues a decision. The Appeals Council shall issue a decision within 30 days after the claimant's reply to the Appeals Council's notice of proposed action is received. The notice of proposed action is sent with the Appeals Council notice granting review. If no reply is received, the Appeals Council shall issue the decision within 30 days after the end of the period for reply.

(b) Additional evidence is needed. (1) If the Appeals Council requests additional evidence, it shall do so within 45 days after it grants the request for review. If after it receives additional evidence the Appeals Council decides to issue a decision (rather than remand the case to an Administrative Law Judge), the decision shall be issued within 30 days after the claimant comments on the evidence. If no comment is received, the decision shall be issued within 30 days after the end of the comment period.

(2) If after the evidence or comments are received, the Appeals Council determines further evidence is needed, and then decides to issue a decision (rather than remand the case to an Administrative Law

Judge), the decision shall be issued within 30 days after the claimant's comments are received on the additional evidence. If no comments are received, the decision shall be issued within 30 days after the end of the comment period.

(c) Remand to the Administrative Law Judge. If the Appeals Council decides to remand a case to the Administrative Law Judge, the case shall be remanded within 30 days from the date the Appeals Council grants the review. If the Appeals Council requests additional evidence and then decides to remand the case to the Administrative Law Judge, the case shall be remanded within 30 days after the Appeals Council receives the evidence and the claimant's comments, if any.

7. Following § 416.1467, new §§ 416.1467a through 416.1467d are added to read as follows:

§ 416.1467a Time limits for issuing hearing decisions in cases remanded by the Appeals Council.

If the Appeals Council remands a case to the Administrative Law Judge (except for cases remanded by a court), the time limits for issuing a hearing decision (including the extensions provided) specified in section 416.1455a shall be applicable, except the time limit shall begin as of the date the Appeals Council remands the case to the Administrative Law Judge.

§ 416.1467b Time limits for issuing hearing decisions in cases remanded by a court.

If a court remands a case to the Secretary, the following time

limits shall apply (except where the court sets other time limits):

(a) Appeals Council issues decision. If the Appeals Council determines that it can issue a decision from the evidence in the record, the decision shall be issued within 30 days after the Secretary receives the court's remand order.

(b) Appeals Council requests additional evidence. If the Appeals Council decides additional evidence is needed, the Appeals Council shall request it within 30 days after the Secretary receives the court's remand order. The Appeals Council shall issue a decision within 30 days after the evidence is entered into the record.

(c) Appeals Council remands case to Administrative Law Judge. If the Appeals Council decides to remand a case to an Administrative Law Judge, it shall do so within 45 days after the Secretary receives the court's remand order. If the Appeals Council remands a case to an Administrative Law Judge for the holding of a hearing or the issuance of a hearing decision, the time limit specified in section 416.1455a and extensions thereof shall be applicable, except that the time limit shall begin as of the date the Appeals Council remands the case to the Administrative Law Judge.

(d) Administrative Law Judge returns case with the recommended decision to Appeals Council. The Appeals Council shall issue a decision, adopting, modifying or rejecting the Administrative Law Judge's recommended decision within 45 days after the expiration of the time period within which the claimant may submit comments. If after receiving the recommended decision issued by the Administrative Law Judge the

Appeals Council wishes to obtain additional evidence, the time limits in § 416.1464b(b) shall apply, except that the time limit shall begin as of the date the Appeals Council receives the Administrative Law Judge's recommended decision.

(e) Clarification or appeal of remand order. Where clarification of a remand order is required or appeal requested, the Appeals Council shall request such clarification or appeal within 30 days after the Secretary receives the remand order. /

§ 416.1467c Time limit for action by the Appeals Council if it reviews a hearing decision on its own motion or reopens a decision.

If the Appeals Council reviews a decision on its own motion or reopens a decision it will--

(a) Issue a decision within 30 days after the expiration of the period for comment on the Appeals Council's notice to reopen or take own motion review; or

(b) Request any additional evidence within 45 days of granting the review or reopening a decision and issue its decision within 30 days after the end of the period for receiving comments on any additional evidence the Appeals Council requested; or

(c) Remand the case to the Administrative Law Judge within 30 days after it has notified the claimant that it is reviewing the decision or within 30 days after the receipt of additional evidence. In this case, the time limits in 416.1467a will apply.

§ 416.1467d Exceptions to time periods for action by the Appeals Council.

If a claim is pending before the Appeals Council and the claimant requests time to review the record or submit additional evidence or a brief, the time period for action by the Appeals Council will be extended by 30 days or the period of delay, whichever is greater.